

## Part II. Operations

### Article 5. Implementation and Maintenance of the Unified Program

**§15180. What are the minimum administrative procedures the applicant agency must establish and the CUPA must undertake to ensure a coordinated and consistent Unified Program?**

(a) The applicant agency shall establish and the CUPA shall implement, administrative procedures to carry out the requirements of consolidating, coordinating, and making consistent the Unified Program. These procedures shall include, at a minimum, the following:

(1) Public participation.

(A) Public participation shall include, at a minimum, procedures to coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.

(B) Public participation shall, to the extent feasible, include consolidated public notices for activities related to the elements of the Unified Program.

(2) Information management.

(A) The Unified Program shall include procedures for records maintenance. These will include at a minimum:

- (i) identification of the records maintained
- (ii) minimum retention times
- (iii) archive procedures
- (iv) proper disposal methods

(B) Responsible agencies shall institute procedures to respond to requests from the public, from government agencies with a legal right to access the information, or from emergency responders.

(C) Personnel records

- (i) The responsible agency shall maintain training records.
- (ii) The responsible agency shall make training records available to the CUPA upon request.
- (iii) The CUPA shall provide training records or access to training records to the Secretary upon 30 days request.

(D) Hazardous Material Release Response Plans and Inventory information shall be sent by the responsible agency to other local agencies with shared responsibilities for protection of public health and safety and the environment within 15 days of receipt and confirmation in accordance with Health and Safety Code Section 25509.2(a)(2) and (3).

(E) Within three months of the Secretary's approval of the electronic data transmission protocol developed pursuant to Public Resources Code, Division 34, Chapter 3, Section 71060 et seq., Data Management, a CUPA shall accept data from businesses in the approved electronic data transmission protocol, if the CUPA agrees to accept information electronically.

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(F) The CUPA may permit a regulated business to meet its information reporting requirements electronically. In such case, the format and mode of the submission shall be specified by the CUPA and shall be consistent with the data standards adopted in Articles 5 through 10 inclusive.

(3) Financial management.

(A) The Unified Program shall include a Financial Management System. The Financial Management System shall:

- (i) implement the single fee system;
- (ii) include a mechanism for fee accountability in compliance with Section 15210(b).

(4) Dispute resolution. The CUPA shall implement a dispute resolution process, designed to resolve problems arising between the participating agencies and the CUPA.

(5) Formal appeal process. The Unified Program shall include procedures which allow for appeal of a dispute resolution pursuant to paragraph (4) of this subsection.

(6) Comments from facilities and public. The CUPA shall ensure that the Unified Program includes a mechanism to receive and consider comments related to Unified Program performance from regulated businesses and the public on a regular basis.

(7) Unified Program meetings.

(A) The CUPA shall conduct meetings, to coordinate and to maintain consistency within the Unified Program, at least four times annually or as specified in the implementation plan pursuant to Section 15150(e)(6).

(B) Representatives of the CUPA and all PAs within the CUPA's jurisdiction will attend.

(8) Participating agency management.

(A) The governing body of the CUPA shall enter into written agreements with the governing bodies of all participating agencies to implement specific element(s) of the Unified Program.

(B) The CUPA shall establish procedures for withdrawal or revocation of participating agencies.

(C) The CUPA shall include an evaluation of participating agency performance in the annual self audit, pursuant to Section 15280(a).

(D) A participating agency which ceases to meet minimum qualifications or fails to implement its program element(s) as described in the Unified Program application approved by the Secretary, at any time during the term of its agreement with the CUPA, shall enter into a program improvement agreement with the CUPA. The program improvement agreement shall specify the areas of improvement, minimum accomplishments necessary, and time frames which shall be met.

(E) The CUPA may apply to the Secretary, in accordance with Section 15300, for approval to replace a participating agency which fails to perform according to the program improvement agreement.

(9) Self Auditing. The CUPA shall conduct an annual self audit which meets the requirements of Section 15280(a).

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(10) Reporting. The CUPA shall comply with reporting and self-auditing requirements identified in Sections 15250, 15280, and 15290.

(b) The Secretary for Environmental Protection, shall, within five years of the effective date of the regulations in this Article, determine whether the regulations should be retained, revised, or repealed.

Authority cited: Sections 25404(b) and (e) and 25404.6, Health and Safety Code. Reference: Sections 25103, 25404.2(a) and (c), 25404.3(d), 25404.4(a)(1), 25404.5, 25500, 25506, 25509.2(a)(3) and 25534.5, Health and Safety Code; and Section 6253 et seq., Government Code.

**HISTORY**

1. New article 5 and section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New article 5 and section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New article 5 and section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New article 5 and section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-14-94 order including amendment of subsections (a), (a)(1)(A), repealer of subsection (a)(2)(A)(iv) and subsection renumbering, amendment of subsection (a)(2)(B), repealer of subsection (a)(2)(D) and subsection relettering, amendment of newly redesignated subsections (a)(2)(E)-(a)(2)(F), new subsections (a)(2)(G)-(a)(2)(H), amendment of subsection (a)(3)(A)(i), repealer of subsection (a)(3)(A)(ii)-(a)(3)(A)(iii) and subsection renumbering, redesignation and amendment of part of subsection (a)(7) as new (a)(7)(A) and new (a)(7)(B), and amendment of subsections (a)(8)(B), (a)(9) and (a)(10) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Amendment of subsections (a)(2)(E)-(G) and Note filed 12-20-96 as an emergency; operative 12-20-96 (Register 96, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-21-97 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsections (a)(2)(E)-(G) and Note refiled 4-11-97 as an emergency; operative 4-11-97 (Register 97, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-11-97 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsections (a)(2)(E)-(G) and Note refiled 7-30-97 as an emergency; operative 7-30-97 (Register 97, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-1-97 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsections (a)(2)(E)-(G) and Note refiled 12-2-97 as an emergency; operative 12-2-97 (Register 97, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-1-98 or emergency language will be repealed by operation of law on the following day.
10. Reinstatement of section as it existed prior to 12-2-97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 14).
11. Amendment of subsections (a)(2)(E)-(G) and Note filed 3-31-98 as an emergency; operative 3-31-98 (Register 98, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-29-98 or emergency language will be repealed by operation of law on the following day.
12. Amendment of subsections (a)(2)(E)-(G) and Note refiled 7-30-98 as an emergency; operative 7-30-98 (Register 98, No. 31). A Certificate of Compliance must be transmitted to OAL by 11-27-98 or emergency language will be repealed by operation of law on the following day.
13. New part II heading and amendment of section and Note filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.

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14. Certificate of Compliance as to 1-8-99 order, including further amendments, transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

**§15185. What information must CUPAs collect, retain, and manage?**

(a) CUPAs shall collect, retain, and manage information needed to implement the Unified Program. At a minimum, the CUPAs shall collect and retain all information defined in the Unified Program Data Dictionary. [Refer to Appendices C and D]

(b) The data dictionary defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected and retained by a CUPA. [Refer to definition in Section 15110] It consists of the following sections:

(1) The Business Section for information reported by businesses to CUPAs using the Unified Program Consolidated Form [refer to Section 15400] The Business Section of the Data Dictionary is organized into the following parts:

(A) Facility Information

(i) Business Activities

(ii) Business Owner/Operator Identification

(B) Hazardous Materials

(i) Hazardous Materials Inventory-Chemical Description

(C) Tanks

(i) Underground Storage Tank (UST) Facility

(ii) UST Tank

(iii) UST Installation-Certificate of Compliance

(D) Hazardous Waste

(i) Recyclable Materials Report

(ii) Onsite Hazardous Waste Treatment Notification-Facility

(iii) Onsite Hazardous Waste Treatment Notification-Unit

(iv) Certification Of Financial Assurance for Permit by Rule and Conditionally Authorized Operations

(v) Remote Waste Consolidation Site Annual Notification

(vi) Hazardous Waste Tank Closure Certification

(2) The CUPA Section for information that shall be collected and retained by a CUPA and reported to the State pursuant to Section 15290. [Appendix D] The CUPA Section of the Data Dictionary is organized into the following sections:

(A) Compliance Activity Information

(B) Inspection Information

(C) Enforcement Information

(D) Tiered Permitting Release Information

(E) Household Hazardous Waste Information (reserved)

(c) CUPAs shall collect, retain, and manage any additional information required by state or federal law.

(d) CUPAs may satisfy these information collection, retention, and management requirements through agreements with Participating Agencies that serve as the repository of the information.

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(e) Electronic reporting is optional and the CUPA is not required to store or maintain the data in the Unified Program Data Dictionary format (Appendices C and D). The Data Dictionary data structures and formats must be used for electronic reporting by businesses to a CUPA pursuant to Section 15187 or by a CUPA to the State pursuant to Sections 15187 and 15290(f) and (g).

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25281.2, 25218.9, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

**HISTORY**

1. New section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

**§15186. What are the definitions of the data terminology used in the Unified Program information standards?**

(a) For the purposes of this Division, the following terms related to Unified Program information standards have the following meaning:

**Data elements** are the information components required by applicable statutes or regulations.

**Data transmission protocol** means a standard for sharing electronic data.

**Electronic reporting or sharing of data** means transferring data or information using an electronic or magnetic media.

**File format** means how data is packaged in any of these modes.

**Format** means the order, arrangement, style, and organization of the data elements comprising the UPCF.

**Media** means the type of device used to share data from the source to a recipient. Examples include telecommunications transmissions, such as e-mail or direct computer to computer links and magnetic media such as disks, diskettes, and tapes.

**Mode** means the method by which data is shared. Common modes include e-mail, diskette, tape, and CD ROM. Mode encompasses the file format and data transmission protocol.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Section 25503.3(b), Health and Safety Code.

**HISTORY**

1. New section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

**§15187. How do regulated businesses and CUPAs use the data dictionary and provide information electronically?**

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- (a) If a CUPA accepts any information electronically, the CUPA shall accept all submissions that contain the data elements with the required field length and type and in the order specified in the data dictionary. A CUPA may, on a case-by-case basis, agree to accept information that does not meet the data dictionary standard.
- (b) A regulated business may report information collected on the UPCF or on an alternative version developed by the CUPA [refer to Sections 15400 and 15400.3] to a CUPA electronically, if the CUPA agrees to accept it electronically. In addition:
  - (1) Upon agreement by the CUPA, the business may submit data in either the ASCII flat file format, ANSI X12, or an alternative file format.
  - (2) The business shall submit data in the mode specified by the CUPA.
- (c) The CUPA may establish local standards for the collection of locally required supplemental information in addition to standards specified in the Unified Program Data Dictionary.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503.3(a) and (b), Health and Safety Code; and Section 71060 et seq, Public Resources Code.

**HISTORY**

1. New section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

**§15187.1. What are the requirements for use of electronic signatures with electronic submittals of Unified Program information?**

- (a) If a business submits regulatory information specified in the data dictionary electronically, a digital signature may be used in lieu of a manual signature to identify the party submitting the data, subject to agreement with the party to receive the data and provided the method used is not precluded by state or federal law.
- (b) For the purposes of the UPCF and data dictionary, both the UPCF and data submitted per the requirements of the Data Dictionary constitute a writing.
- (c) For the purposes of the UPCF and data dictionary, signed or signature means any symbol, including a digital signature, executed or adopted by a party with present intention to authenticate a writing.
- (d) An electronic signature may not be denied legal effect, validity, or enforceability solely on the ground that it is electronic.
- (e) An electronic signature, message, or record, is attributable to a person if:
  - (1) It was the action of that person, that person authorized the action, or that person's agent took the action; or

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- (2) The party in receipt of the electronic signature, message, or record, concluded in good faith that it met any of the criteria in (e)(1) above.

Authority cited: Section 25404(e), Health & Safety Code, Sections 71061 and 71066, Public Resources Code; and Section 16.5(c), Government Code. References: Sections 71060 et seq., Public Resources Code, Section 16.5, Government Code, ABA, Section of Science and Technology, Digital Signature Guidelines, Legal Infrastructure for Certification Authorities and Secure Electronic Commerce, August 1, 1996, Sections 2B-113, 2B-115, 2B-118 of the Proposed Uniform Commercial Code, Section 250 of the California Evidence Code, and Section 1001(a) of the Federal Rules of Evidence.

**HISTORY**

1. New section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

**§15188. How long must a CUPA retain information?**

- (a) A CUPA shall retain information as follows:

- (1) A CUPA shall retain copies of inspection reports, enforcement files, and onsite Tiered Permitting notifications for at least five (5) years. A CUPA shall retain all records related to hazardous waste enforcement actions for at least three (3) years after the enforcement action is resolved.
- (2) For CUPA-to-State reports, a CUPA shall retain the information used to produce the summary reports to the state listed in section 15290.
  - (A) CUPAs that do not use an electronic data management system shall retain the detailed records used to produce the summary reports for a minimum of five (5) years after the report is submitted
  - (B) CUPAs that use an electronic data management system, may satisfy the records retention requirement by maintaining an electronic copy of the data used to produce the summary reports, Reports 2 to 6. These electronic records of the CUPA information shall be retained for a minimum of five (5) years.
  - (C) CUPAs may establish electronic data management systems that retain all previous historical information whenever information is updated so that a complete historical record as of a specific date can be generated to recreate the detailed information for each summary report required by section 15290.

- (b) CUPAs shall collect and retain any additional information required by state or federal law.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(a)(4) and 25404.6(b).

**HISTORY**

1. New section filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

**§15190. How must permitting occur within the Unified Program?**

- (a) The Unified Program shall include a Consolidated Permit Program which shall be implemented according to a Consolidated Permit Program Plan.
- (b) The Consolidated Permit Program requires:
  - (1) Consolidation of permits. The CUPA shall consolidate the permits issued under the Unified Program utilizing the Unified Program Facility Permit;
  - (2) A single point of local contact for permit applicants. The program shall provide for a coordinated and consolidated permit process which provides regulated businesses a single point of local contact for obtaining information on, the requirements for, and the application process for the Unified Program consolidated permit.
    - (A) A single point of contact for referrals to appropriate participating agencies, if applicable;
  - (3) A consolidated permit application package.
    - (A) The responsible agency shall provide a consolidated permit application package for the specific requirements of regulated businesses.
    - (B) The permit application may be presented as a single form, designed to transmit multi-program information, or it may be multiple forms arranged into a single package.
    - (C) Duplicate information between different forms is allowed only if it is necessary to provide for form tracking.
    - (D) To avoid duplication, the CUPA shall utilize the applicable sections of the Unified Program Consolidated Form [refer to 15400] and, if necessary, additional information [refer to 15400.4] to collect the required information for a permit application.
  - (4) A system to define permits. The Consolidated Permit Program shall include a system to define which program elements require permits for activities of each regulated business.
  - (5) Use of the Consolidated Contingency Plan format pursuant to Health and Safety Code Section 25503.4 and Government Code Section 8670.36.5 et seq.
    - (A) The Consolidated Contingency Plan format developed by the CUPA shall be substantially equivalent to the format developed by the Governor's Office of Emergency Services pursuant to Health and Safety Code, Section 25503.4, when that format has been adopted.
    - (B) The CUPA shall accept plans submitted by businesses in the Consolidated Contingency Plan format adopted by the Governor's Office of Emergency Services pursuant to Health and Safety Code, Section 25503.4.
  - (6) Timely review and decision practices on consolidated permits.
    - (A) The CUPA, in cooperation with the participating agencies, shall ensure timely decisions regarding consolidated permits.
    - (B) The system for consistent and timely permitting practices shall provide:



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- (i) a preliminary check for application completeness;
    - (ii) a technical review of permit applications by the responsible agency;
    - (iii) a procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.
  - (7) Issuance of Permits. The applicant agency shall identify efficient methods of transmitting the permit, and include them in the Consolidated Permit Program plan.
  - (8) A mechanism for evaluating the permit process.
    - (A) The applicant agency shall propose a mechanism to evaluate the coordination, consolidation and consistency of the permit process.
    - (B) The evaluation process may include consumer response tools such as questionnaires or surveys.
    - (C) Information obtained through the permit evaluation process shall be considered and used in modifying the Consolidated Permit Program when appropriate.
- (c) The applicant agency, in conjunction with its proposed participating agencies, shall develop and the CUPA, in conjunction with the participating agencies, shall implement a Consolidated Permit Program Plan. The Consolidated Permit Program plan shall include the following elements:
- (1) A list of all types of permits and authorizations that will be consolidated within the Unified Program.
  - (2) A flow chart describing the Unified Program's permitting procedures, including time lines and time limits of appeal processes.
  - (3) A description or sample of the cover sheet of the Consolidated Permit. The cover sheet of the Consolidated Permit at a minimum, shall:
    - (A) List the program element permits which make up the Consolidated Permit and the agency(ies) responsible for issuing those permits.
    - (B) Identify the permit status of each program element (temporary, provisional, or permitted).
    - (C) Identify the permitted facility by business name and address.
    - (D) Specify the permit issuance date.
    - (E) Specify the effective term of the permit.
  - (4) Addenda which will be used to document permit conditions for each applicable element of the Unified Program.
  - (5) The consolidated permit cycle established for the CUPA.
  - (6) A description of the procedure and process that the CUPA shall use to address any coordination, consolidation, or consistency issues not specifically addressed above.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(a)(1) and (2), 25299.6 and 25503.4, Health and Safety Code; Section 8670.36.5, Government Code.

**HISTORY**

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1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-14-94 order including amendments to subsections (b)(1), (B)(2)(A), (b)(3), new subsections (b)(3)(A)-(C), repealer of subsection (b)(4)(A), amendment of subsection (b)(5)(A), new subsection (b)(5)(C), amendment of subsection (c)(2), and repealer of subsection (c)(7) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. New subsection (b)(3)(D), amendment of subsections (b)(5) and (b)(5)(A), repealer of subsection (b)(5)(B), subsection relettering, and amendment of newly designated subsection (b)(5)(B) filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

#### **§15200. How must inspection and enforcement occur within the Unified Program?**

- (a) The Unified Program shall include a single Unified Inspection and Enforcement Program which shall be implemented according to the Inspection and Enforcement Program Plan identified in subsection (f) of this Section.
- (b) The following types of inspections shall be conducted within the Unified Program and shall be conducted according to the standards contained in statute and regulation:
  - (1) Hazardous waste generator inspections [refer to Sections 25150, 25159, Health and Safety Code; Chapter 12, Division 4.5, Title 22 of the California Code of Regulations].
  - (2) Inspection of onsite hazardous waste treatment activities under the conditionally exempt, conditionally authorized, and permit by rule tiers of Tiered Permitting [refer to Sections 25200.3, 25201.5, Health and Safety Code; Chapter 45, Division 4.5, Title 22 of the California Code of Regulations].
  - (3) Underground Storage Tank Program inspections [refer to Section 25288, Health and Safety Code; Section 2712 et seq., Chapter 16, Division 3, Title 23 of the California Code of Regulations].
  - (4) Business Plan Program inspections [refer to Section 25500 et seq., Health and Safety Code].
  - (5) Risk Management and Prevention Program inspections [refer to Section 25533 et seq., Health and Safety Code].
  - (6) Other inspections that may be consolidated pursuant to Health and Safety Code Section 25404.2(a)(1).

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Figure 4 – MANDATED INSPECTION FREQUENCIES		
Program Element	Inspection Frequency	Statutory Reference
Hazardous Waste Generator Program	No mandated frequency	
Hazardous Waste Treatment Activities – PBR, CA and CE	at least once every 3 years	Health & Safety Code Section 25201.4(b) modified by SB 1191, 1995
Underground Storage Tank Program	at least once every 3 years	Health & Safety Code Section 25288(a)
Business Plan Program	at least once every 3 years	Health & Safety Code Section 25508(b)
Risk Management and Prevention Plans and Inventory Program	at least once every 3 years	Health & Safety Code Section 25537

(c) The CUPA shall encourage an integrated/multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement and deterrence of violations affecting more than one environmental medium or regulatory scheme.

(d) In addition to the mandatory elements of Health and Safety Code Division 20, Chapter 6.5, the CUPA may integrate optional waste reduction and pollution prevention programs into the unified Inspection and Enforcement Program.

(e) These regulations shall not limit the authority of any state agency to investigate alleged violations of state law. These regulations shall not limit appropriate state agencies from taking any other actions which are mandated, allowed or authorized pursuant to state law.

(1) The Department of Toxic Substances Control will notify the appropriate CUPA of any investigation it will conduct of hazardous waste generators, hazardous waste generators conducting treatment conditionally authorized pursuant to Section 25200.3, hazardous waste generators conducting treatment conditionally exempted pursuant to Section 25201.5, and facilities deemed to hold a permit-by-rule pursuant to the regulations adopted by the Department. The CUPA shall not disseminate information related to an ongoing investigation.

(f) The applicant agency shall develop and the Certified Unified Program Agency shall implement an Inspection and Enforcement Program Plan. The Inspection and Enforcement Program Plan shall be prepared in cooperation with all proposed participating agencies of the jurisdiction and shall contain provisions for administering all program elements.

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- (1) The plan shall include an inspection component. The inspection component shall include the following:
  - (A) The number of regulated businesses within each program element and the mandated frequency of inspections for those regulated businesses.
  - (B) A schedule of the frequency of inspections to be conducted, which shall meet the minimum inspection frequency(s) mandated in statutes.
  - (C) If there is no mandated inspection frequency, inspection frequency scheduling shall consider the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials, emergency response capability, compliance history and any other pertinent local issues.
  - (D) Provisions to promote integrated multi-media inspections.
  - (E) A mechanism to ensure that Unified Program inspector training meets or exceeds requirements currently set forth in statute or regulations.
  - (F) Methods to cross-train staff.
  - (G) To the maximum extent feasible, coordinate inspection and enforcement efforts between the CUPA and its participating agencies.
- (2) The plan shall include an enforcement component. The Enforcement Component shall include the following:
  - (A) A description of responsible agency enforcement notification procedures which ensure the following:
    - (i) appropriate confidentiality.
    - (ii) coordination and timely notification between responsible agencies and the appropriate prosecuting agency.
  - (B) Uniform and coordinated application of enforcement standards.
  - (C) Penalties and enforcement actions which are consistent and predictable for similar violations and no less stringent than state statute and regulations.
  - (D) A graduated series of enforcement actions which may be taken by the responsible agencies, based on the severity of the violation.
  - (E) Provisions for county and/or regional meetings of the CUPA with its participating agencies and between the CUPAs in a county-wide or regional area involving multiple CUPAs at least every quarter. The purpose of the meeting will be to discuss integrated multi-media enforcement programs, which include joint and combined inspection and enforcement;
  - (F) A description of the efforts made to eliminate duplication, inconsistencies and lack of coordination within inspection and enforcement programs.
  - (G) Provisions to encourage joint, combined and integrated/multi-media inspections whenever possible.
- (3) The Inspection and Enforcement Program plan shall at a minimum be annually reviewed by the CUPA.

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(A) The CUPA shall consult with and reach consensus with the participating agency prior to any changes which affect program elements for which the participating agency is responsible.

(B) The CUPA shall prepare a summary of the annual plan review, pursuant to Section 15280(a)(2). The summary shall discuss effectiveness and efficiency of the Inspection and Enforcement Program activities for the prior year.

(4) The CUPA shall update the plan as necessary.

Authority cited: Sections 25404, 25404.2 and 25404.6(c), Health and Safety Code; Section 6254(f), Government Code. Reference: Sections 25404(c) and (d), 25404.2, 25404.2(a) and (c), 25404.4(b)(3), 25150, 25159, 25179.4, 25200.3, 25201.5, 25288, 25500 and 25533, Health and Safety Code; Section 6254(f), Government Code.

**HISTORY**

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.

5. Certificate of compliance as to 11-14-94 order including amendment of subsection (b), repealer of subsection (b)(2)(A), amendment of subsection (b)(4), Figure 4 and subsections (f), (f)(1)(C), (f)(1)(F), new subsection (f)(1)(G), amendment of subsection (f)(2)(A)(i), redesignation of subsections (f)(2)(A)(iii)-(iv) to subsections (f)(2)(B)-(C) and subsection relettering, amendment of newly designated subsections (f)(2)(B)-(F), (f)(3), (f)(3)(A), redesignation of (f)(4) as (f)(3)(B) and subsection relettering, and amendment of Note transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

**§15210. What is a Single Fee System and how must it operate?**

(a) Each applicant agency shall develop and each CUPA shall implement a Single Fee System which shall replace, within its jurisdiction, all fees currently mandated in Health and Safety Code, Sections 25205.14 (Tiered Permitting), 25287 (Underground Storage Tanks), 25513 (Business Plans), 25535.2 (Risk Management Prevention Plans) and any other fees levied by a local agency specifically to fund the implementation of the programs specified in Health and Safety Code Section 25404(c).

(1) The Single Fee System may be used to charge fees for programs which are not listed as Unified Program elements in Health and Safety Code, Section 25404(c), if those programs are incorporated into the Unified Program.

(2) The Single Fee System may reflect variations in cost to implement and maintain programs for different regulated businesses.

(A) Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs

(B) Fees may differ from one jurisdiction to the next, based on the necessary and reasonable costs to implement the Unified Program.

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- (C) The fee schedule may be adjusted by the CUPA to reflect changes in reasonable and necessary costs.
  - (3) Provided the single fee system meets the minimum requirements of the law, a CUPA or a participating agency has the authority to determine the level of service it will provide and to set its fees to fund the necessary and reasonable costs of its program.
  - (4) Each participating agency shall notify the CUPA of its program costs. The CUPA shall ensure that all funds collected on behalf of the participating agency are forwarded to the participating agency.
    - (A) The CUPA shall pay the participating agency within 45 days of receiving fees designated for the participating agency unless the participating agency and CUPA agree in writing to an alternate schedule.
  - (5) Each billing statement shall itemize the fees by program element, if those fee elements are calculated separately.
  - (6) Fees for non-recurring activities of the CUPA or participating agency such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the single fee billing.
  - (7) The governing body of the CUPA shall establish the fee schedule for businesses regulated under the Unified Program. The governing body of the CUPA shall utilize the fee schedules established by the participating agencies and authorize the collection of those fees.
  - (8) The CUPA or participating agency shall make fees schedules available to interested parties upon request.
  - (9) The applicant agency shall develop, and if certified, implement a mechanism to resolve fee disputes which arise between the CUPA and participating agencies, between a regulated business and either the responsible agency or the CUPA, or between a regulated business and the state regarding the state surcharge [refer to Section 15250(d)].
- (b) Each CUPA shall implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed.
- (1) The fee accountability program shall be instituted before the single fee system. The fee accountability program shall include at a minimum the following elements:
    - (A) A procedure of accounting for: the fee schedule, the actual amount billed, and the revenue collected.
    - (B) Discrete billable services, categorized as either site specific or general.
    - (C) Staff work hours required to implement the program.
    - (D) Direct program expenses including durable and disposable equipment.
    - (E) Indirect program expenses including overhead for facilities and administrative functions.
    - (F) The number of regulated businesses in each program element within the jurisdiction.
    - (G) Total number of regulated businesses in the jurisdiction.

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- (H) Quantity and range of services provided, including frequency of inspection.
- (2) The CUPA and participating agencies shall annually review and update the fee accountability program.
- (c) The Single Fee System shall include mechanisms for the billing, collection and transmittal of the state surcharge.
  - (1) The CUPA may show the state surcharge as a separate item or items within the single fee billing.
  - (2) The CUPA shall transmit to the Secretary all surcharge revenues collected in accordance with Health and Safety Code Section 25404.5(b). Table 7 shall be used as a cover for all transmittals, unless otherwise agreed upon between the applicant agency and the Secretary.
- (d) The CUPA shall provide the Secretary with information necessary for determination of the annual surcharge.
  - (1) The applicant agency shall include in the application for certification the number of regulated businesses and the number of underground tanks in its jurisdiction [refer to Section 15150(e)(4)].
  - (2) The CUPA shall update the data required in this subsection annually and shall report such data to the Secretary by September 30 of each year using Table 8, unless otherwise agreed upon between the applicant agency and the Secretary [refer to Sections 15250(c) and 15280(b)].
  - (3) If the Secretary does not receive current information on the regulated business from each CUPA, the Secretary may use whatever information is available to estimate the data on regulated business.

Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b) and (c) and 25404.6(c), Health and Safety Code.  
Reference: Sections 25404.1(a)(1), 25404.4 and 25404.5, Health and Safety Code.

**HISTORY**

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a), (a)(1), (a)(2)(B), (a)(3), (a)(4), (a)(5), new subsection (a)(7) and renumbering of former subsection (a)(7) to (a)(8), repealer of former subsections (a)(8)-(a)(8)(B) and (a)(10), amendment of subsections (b) and (b)(1)(F), repealer of subsection (c)(1)-(c)(3)(D), new subsections (c)(1)-(2), redesignation of subsections (c)(4)-(c)(4)(c) to (d)-(d)(3), and amendment of newly designated subsections (d)(1)-(d)(2) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

**§15220. How should the Unified Program transition from a multiple fee system to a single fee system?**

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(a) The applicant agency shall develop a single fee system implementation plan which provides for a transition from multiple billing statements and collection agencies within the Unified Program, to a single billing statement and collection agency within the Unified Program.

(1) The applicant agency shall provide for public participation and review of the proposed single fee system implementation plan.

(2) The implementation plan shall provide for a transition period no longer than 5 years.

(3) The implementation plan shall provide for regulated businesses to receive a single billing statement annually which includes all recurring Unified Program activity fees.

(4) The implementation plan shall provide for regulated businesses to remit Unified Program fees with a single payment.

(5) The single fee system implementation plan shall include provisions for instances of non-payment.

(b) A CUPA which has partially implemented the single fee system but requires an extension of the transition period may petition the Secretary for an exception of the five year limit.

(1) The CUPA shall submit such petition at least one year prior to expiration of the five year limit.

(2) The Secretary shall rule on such petitions within 180 days of receipt of the request for extension.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Section 25404.5(a) and (c), Health and Safety Code.

**HISTORY**

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.

5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a)(4), (b), and (b)(2) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

**§15230. What are a participating agency's responsibilities within the Single Fee System?**

(a) Establish fees which reflect the necessary and reasonable costs of implementing the associated program element or elements.



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(b) Notify the CUPA of that fee amount within the time frame as identified in the Unified Program single fee system implementation plan.

Authority cited: Sections 25404(b), 25404(a)(2) and (a)(3), Health and Safety Code. Reference: Section 25404.5(a)(2) and (3), Health and Safety Code.

#### **HISTORY**

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

#### **§15240. What is the State's responsibility with regard to the Surcharge?**

(a) The Secretary shall determine the annual surcharge based on the assumptions, calculations, and supporting data that justify the reasonable and necessary costs of CUPA oversight and program element management by state agencies with responsibilities under the Unified Program.

(1) The Secretary shall determine the amount of the surcharge based upon information received from each state agency responsible for activities under Health and Safety Code, Division 20, Chapter 6.11.

(2) Each state agency responsible for activities under Health and Safety Code, Division 20, Chapter 6.11 shall submit to the Secretary, on a date specified by the Secretary, its projected reasonable and necessary costs, including the detailed supporting information to carry out responsibilities under Health and Safety Code Division 20, Chapter 6.11.

(3) Reasonable and necessary costs shall include but are not limited to, the costs of bad debts, and uncollected fees.

(b) The Secretary shall review annually, and revise if necessary, the state surcharge to be assessed on regulated businesses. The state surcharge shall not be revised more than once per year.

(c) The Secretary shall determine the amount of state surcharge to be assessed on each person regulated by the unified program in order to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under Health and Safety Code, Division 20, Chapter 6.11, pursuant to Health and Safety Code Section 25404.5(b)(1).

(1) A component for oversight of each CUPA assessed on all regulated businesses.

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(2) A component assessed on regulated businesses for each underground storage tank, which meet the criteria of Health and Safety Code Sections 25281(x) and 25287.

(3) A component assessed on businesses regulated under the Health and Safety Code Section 25531 et seq., the California Accidental Release Prevention (CalARP) program. This CalARP surcharge component is assessed on a single company or business within a CUPA's jurisdiction, regardless of the business's number of stationary sources.

(A) A business is not required to pay the CalARP surcharge if a CUPA makes a determination that there is not a significant likelihood of a regulated substances accident risk and does not require the preparation and submission of a risk management plan at any stationary source operated by that business in the CUPA's jurisdiction, pursuant to Health and Safety Code, Section 25534. This CalARP program surcharge component waiver is effective starting in the following fiscal year after the determination is made by the CUPA to prepare and submit any risk management plan at any of the business's stationary source(s), then this surcharge component will be assessed beginning in the following fiscal year.

(d) The Secretary shall resolve those state surcharge disputes which cannot be resolved locally pursuant to Section 15250(d).

(e) The Secretary shall publish the amendments to the state surcharge in the California Regulatory Notice Register and accept comments on the proposed surcharge for 30 days.

(f) Following the 30 day comment period required in subsection (e) for this section, the Secretary will publish the final surcharge in the California Regulatory Notice Register.

(g) Sixty days following the publishing of the final surcharge in the California Regulatory Notice Register, the CUPAs shall be responsible for collecting the new surcharge as part of their Single Fee System.

Authority cited: Sections 25404(b) and (d), 25404.6(c) and 25531.2, Health and Safety Code. Reference: Sections 25404.5(b) and (d) and 25534, Health and Safety Code.

**HISTORY**

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11-14-94 order including repealer of subsections (a)-(e) and new subsections (a)-(e) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

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6. Amendment of subsections (c)(1) and (c)(1)(A), new subsections (c)(4) and (c)(4)(A), and amendment of Note filed 9-11-97 as an emergency; operative 9-11-97 (Register 97, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-9-98 or emergency language will be repealed by operation of law on the following day.
12. Amendment of section and Note filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language 7. Editorial correction of History 6 (Register 98, No. 3).
8. Amendment of subsections (c)(1) and (c)(1)(A), new subsections (c)(4) and (c)(4)(A), and amendment of Note refiled 1-16-98; including additional amendment of subsections (c)(4) and (c)(4)(A); operative 1-16-98 (Register 98, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-20-98 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsections (c)(1) and (c)(1)(A), new subsections (c)(4) and (c)(4)(A), and amendment of Note refiled 5-18-98; operative 5-18-98 (Register 98, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-15-98 or emergency language will be repealed by operation of law on the following day.
10. Reinstatement of section as it existed prior to 9-11-97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 38).
11. Amendment of subsections (c)(1)-(c)(1)(A), repealer of subsections (c)(3)-(c)(3)(B), new subsections (c)(3)-(c)(3)(A) and amendment of Note filed 9-16-98 as an emergency; operative 9-16-98 (Register 98, No. 38). A Certificate of Compliance must be transmitted to OAL by 1-14-99 or emergency language will be repealed by operation of law on the following day.  
will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).
14. Amendment of subsections (c)(1) and (c)(1)(A) filed 8-31-99 as an emergency; operative 8-31-99 (Register 99, No. 36). A Certificate of Compliance must be transmitted to OAL by 12-29-99 or emergency language will be repealed by operation of law on the following day.
15. Amendment of subsections (c)(1) and (c)(1)(A) refiled 12-24-99 as an emergency; operative 12-24-99 (Register 99, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.
16. Reinstatement of section as it existed prior to 8-31-99 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 25).
17. Amendment of section and Note filed 11-1-2000 as an emergency; operative 11-1-2000 (Register 2000, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-1-2001 or emergency language will be repealed by operation of law on the following day.
18. Reinstatement of section as it existed prior to 11-1-2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2001, No. 10).
19. Amendment of section and Note filed 3-8-2001 as an emergency; operative 3-8-2001 (Register 2001, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2001 or emergency language will be repealed by operation of law on the following day.
20. Amendment of section and Note refiled 6-25-2001 as an emergency; operative 6-25-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-23-2001 or emergency language will be repealed by operation of law on the following day.
21. Amendment of section and Note refiled 10-22-2001 as an emergency; operative 10-24-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-21-2002 or emergency language will be repealed by operation of law on the following day.
22. Certificate of Compliance as to 10-22-2001 order, including amendment of section, transmitted to OAL 2-4-2002 and filed 3-5-2002 (Register 2002, No. 10).

### **§15250. What is the CUPA's responsibility with regard to the Surcharge?**

#### **(a) Collection and record keeping.**

- (1) The CUPA shall implement procedures to ensure collection of the surcharge. These procedures should address at a minimum, the suspension of permits for non-payment or late payment.
- (2) The surcharge may be shown as a separate item on billing statements sent out to regulated businesses.

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- (3) The CUPA shall meet surcharge collection and reporting requirements for all program elements within its Unified Program.
- (4) Willful or negligent failure to collect the surcharge may be a basis for withdrawing the CUPA's certification.
- (5) The CUPA or other Responsible Agency shall retain surcharge billing and collection records for five (5) years following closure of any billing period or until completion of any audit in process, whichever is longer.
- (6) The CUPA shall provide access to surcharge billing, collection and transmittal records within 60 days following a request from the Secretary.
- (7) The CUPA shall begin assessing the surcharge within its first billing cycle or within twelve months after the effective date of certification, whichever is shorter. The full surcharge will be assessed and collected within twelve months of the effective date of certification and every twelve months thereafter.
- (8) The CUPA may waive the state surcharge for specific regulated businesses provided that the criteria for waiving the state surcharge meets the same standards as those established by the CUPA for waiving the single fee. The state surcharge may not be waived for any regulated business so long as the regulated business is assessed a fee under the single fee system.

(b) Remittance to the Secretary.

- (1) The CUPA shall transmit all collected state surcharge revenues to the Secretary quarterly, within 30 days of the end of each state fiscal quarter.
  - (A) With each surcharge transmittal the CUPA shall separately report the amount of surcharge revenues collected for: CUPA oversight, regulated underground storage tanks, and the CalARP Program.
  - (B) Failure to transmit the surcharge after collection may be a basis for withdrawing the CUPA's certification.
  - (C) Remit the collected state surcharge revenues with a completed copy of Report 1 to:

SECRETARY FOR ENVIRONMENTAL PROTECTION  
C/O AIR RESOURCES BOARD  
ACCOUNTING/GRANTS BRANCH  
P.O. BOX 2815  
SACRAMENTO, CALIFORNIA 95812-2815

(c) Reporting to the Secretary that information necessary to determine surcharge.

- (1) The applicant agency shall include in the application for certification: the number of regulated businesses and the number of underground tanks in its jurisdiction and the number of businesses regulated under the CalARP Program prior to certification.
- (2) Each CUPA shall provide to the Secretary by September 30, annually, the summary reports required in Section 15290.
- (3) The Secretary shall provide copies of the received summary reports required pursuant to Section 15290 to any state agency with program element responsibilities under the Unified Program upon request.

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- (d) Surcharge dispute resolution or referral.
  - (1) The CUPA shall prepare and implement a plan to resolve disputes with regulated businesses involving the state surcharge. The dispute resolution process may allow the CUPA to waive the state surcharge or a portion of the Surcharge for specific regulated businesses, provided that:
    - (A) The criteria for waiving the state surcharge shall meet the same standards as those established by the CUPA for waiving the single fee.
    - (B) The portions of the state surcharge for oversight may not be waived for any regulated business as long as the CUPA is receiving a single fee from that regulated business.
  - (2) The Secretary may revoke the CUPA's authority to waive state surcharge fees if it is determined that the CUPA consistently does not make a reasonable, good faith effort to protect the State's interests or is not following the established criteria for waiving the state surcharge.
  - (3) The CUPA shall attempt to resolve disputes involving the surcharge. Those disputes which cannot be resolved locally may be referred to the Secretary.
    - (A) Disputes referred to the Secretary shall be in writing and shall include a recommendation for resolution.
- (e) The CUPA shall provide access to surcharge billing, collection and transmittal records upon the Secretary's request.
- (f) The responsible agency shall retain surcharge billing and collection records for five (5) years following closure of any billing period or until completion of any audit in process, whichever is longer.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.5(a)(1), (2) and (4) and 25404.5(b), Health and Safety Code.

**HISTORY**

- 1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
- 2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
- 3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
- 4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
- 5. Certificate of Compliance as to 11-14-94 order including amendment of subsection (a)(1), repealer of subsection (a)(1)(A), amendment of subsections (a)(3)-(4), (a)(6), new subsections (a)(7)-(8), amendment of subsections (b)(1), (c)(1)-(2) and (d)(1)(B) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
- 6. Change without regulatory effect adding subsection (b)(1)(C) filed 5-28-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 22).
- 7. Amendment of subsections (a)(7), (b)(1), (b)(1)(A), (b)(1)(C), (c)(1), (c)(2) and (d)(1)(A) and new subsection (c)(3) filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.

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8. Certificate of Compliance as to 1-8-99 order transmitted to OAL 4-2-99 and filed 5-14-99 (Register 99, No. 20).

9. Change without regulatory effect amending subsection (b)(1)(C) filed 7-11-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 28).

**§15260. What technical expertise and ongoing training is required of a CUPA?**

(a) In the application for certification each applicant agency shall present evidence that adequate technical expertise is possessed by staff.

(1) Agencies presently implementing one or more program elements of the Unified Program shall be considered to possess adequate expertise to implement those specific program elements as participating agencies or as the CUPA. This information will be obtained from the application pursuant to Section 15150.

(2) Agencies which will assume new program elements as a CUPA or a participating agency are required to meet the standards in effect at the time of application for those program elements.

(3) Agencies that will seek certification as a CUPA are also required to meet the following minimum qualifications:

(A) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements must meet the following minimum educational requirements:

(i) Thirty (30) semester units earned from an accredited college or institution approved by the California Superintendent of Public Instruction under the provisions of California Education Code Section 94310(b), from one or more of the following disciplines:

(aa) biology or microbiology

(bb) chemistry, chemical engineering

(cc) physics, physical science

(dd) environmental science

(ee) geology or soil science

(ff) environmental health

(gg) environmental or sanitary engineering

(hh) toxicology

(ii) industrial hygiene

(jj) hazardous materials management

(kk) fire science, fire technology;

- OR -

(ii) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code Section 94301(b) with major course work in the disciplines listed in Paragraph (3)(A)(i);

- OR -

(iii) Qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education, on the basis of one year of qualifying experience for 15 units of college course work

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authorized pursuant to Paragraph (A)(i), for up to a maximum of 15 units.

(B) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements shall meet minimum hours of training or experience requirements contained in subdivision (d)(3)(B) of this section, for all the following subject areas:

- (i) Regulatory overview;
- (ii) Classification, identification, and chemistry of hazardous materials and hazardous waste;
- (iii) Health and environmental effects of hazardous substances, including chemical exposure and route of entry;
- (iv) Sampling methodologies and use of instrumentation for detection and sampling of hazardous substances;
- (v) Conducting inspections and enforcement actions, and writing inspection reports and notice of violation;
- (vi) Interviewing, case development, and collection and preservation of evidence.

(b) One or more CUPA technical staff or supervisors, as needed to effectively meet the requirements of Paragraphs (3)(A) and (3)(B), shall meet the requirements of subdivision (d) of this section.

(c) The applicant agency shall identify the specific types of ongoing training which technical staff and supervisors are required to receive. Technical staff and supervisors of the CUPA and participating agencies shall receive training in the following areas:

- (1) hazardous materials and hazardous waste permitting, inspection and enforcement duties and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;
- (2) inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;
- (3) administration practices within a hazardous materials and hazardous waste program;
- (4) monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis
- (5) field staff health and safety training including: planning field inspections, safety equipment, on-site procedures, decontamination and hazard recognition and avoidance.

(d)(1) Education Requirements:

(A) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b) with major coursework in biological, chemical, physical, environmental or soil science; environmental health; environmental or sanitary engineering; toxicology; industrial hygiene; or a related field.

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Additional qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education on the basis of one year of qualifying experience for each year of college work for up to a maximum of two years. When substituting experience for education, qualifying education must include a minimum of 30 semester units in natural science from an accredited college or equivalent units from an institution approved as above; or  
(B) Registration as an Environmental Health Specialist may be substituted for the required education.

(2) Participating staff shall have a minimum of one year experience in conducting hazardous materials or hazardous waste regulatory compliance inspections.

(3) Staff participating in field order issuance shall complete the following minimum training:

(A) Health and safety training as specified in section 5192(e) Title 8, California Code of Regulations;

(B) 100 hours of training in regulatory investigative techniques including training in the following subjects:

(i) Federal and state statutes and regulations on hazardous waste control;

(ii) Conducting an inspection;

(iii) Waste classification;

(iv) Inspection report writing;

(v) Collection and preservation of samples;

(vi) Enforcement response options;

(vii) Writing reports of violation;

(viii) Interviewing;

(ix) Case development;

(x) Collection and preservation of evidence;

(xi) Witness training;

(xii) Rules of evidence and the administrative hearing process; and

(xiii) Training on the issuance of field orders.

(C) Staff participating in the desk order process and conducting informal hearings under the field order process shall have 24 hours of training in the following additional areas:

(i) Training on penalty assessment;

(ii) Negotiation techniques; and

(iii) Training on the issuance of desk orders.

(iv) It shall be the responsibility of the CUPA to document the training and experience of staff participating in this program.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1), and 25404.3(b)(1), (4), (5) and (7), Health and Safety Code.

**HISTORY**



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1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-7-95 as an emergency; operative 3-7-95 (Register 95, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-95 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendment of subsections (a)(2), (a)(3)(A) and (b) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
6. Change without regulatory effect amending section filed 12-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 51).

#### **§15270. What technical expertise and ongoing training is required of a participating agency?**

- (a) A participating agency implementing one or more of the program elements on or before December 31, 1995 shall be considered qualified to implement those specific program element(s) [refer to Section 15260(a)(1)].
- (b) A participating agency that does not implement one or more program elements as of December 31, 1995, but intends to assume responsibility for implementation of a program element is required to meet the standards in effect at the time of application for that program element [refer to Section 15260(a)(2)].
- (c) Participating agency technical staff and supervisors shall meet the ongoing training requirements identified in Section 15260(c).

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1), 25404.1(b)(2) and (4), and 25404.3(b)(1), (4), (5) and (7), Health and Safety Code.

#### **HISTORY**

1. New section filed 11-14-94 as an emergency; operative 11-14-94 (Register 94, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-20-95 or emergency language will be repealed by operation of law on the following day.
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3. New section refiled 7-7-95; operative 7-7-95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-4-95 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-3-95 as an emergency; operative 11-3-95 (Register 95, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-2-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of compliance as to 11-14-94 order including amendments of subsections (a) and (b) transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).